

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

ALMA T. MCBROOM,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.: 2:06-CV-767-F
)	
JOHN E. POTTER, POSTMASTER)	
GENERAL, et al.,)	
)	
Defendants.)	

DEFENDANT JOHN E. POTTER'S MOTION TO DISMISS

COMES NOW Defendant, John E. Potter, in his official capacity as Postmaster General of the United States, by and through Leura G. Canary, United States Attorney for the Middle District of Alabama, and pursuant to Rule 12 (b)(6) of the Federal Rule of Civil Procedure, moves to dismiss for failure to state a claim upon which relief can be granted. The grounds for this motion are that:

1. Plaintiff seeks to recover money damages from the Postal Service for alleged constitutional violations.

2. *Bivens*¹-type constitutional tort claims are not available against federal agencies, including the Postal Service. *FDIC v. Meyer*, 510 U.S. 471, 484-86 (1994).

¹*Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971).

In support of this motion, Defendant relies upon the accompanying memorandum of law.

WHEREFORE, Defendant, the Postmaster General, requests that the Court dismiss plaintiff's claims against him in their entirety with prejudice.

Respectfully submitted this 27th day of November, 2006.

LEURA G. CANARY
United States Attorney

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CERTIFICATE OF SERVICE

I hereby certify that on November 27, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to Anton Hajjar, Esq., Brenda Zwack, Esq., Patricia K. Nakamura, Esq., and William Post Roberts, II, Esq., and mailed a copy of same, first class, postage prepaid, addressed as follows:

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/s/Stephen M. Doyle
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